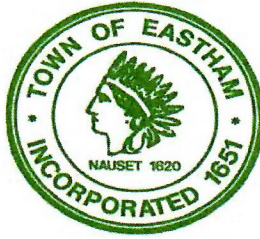


Eastham Conservation Commission

2500 State Highway
Eastham, MA 02642
508-240-5900



MINUTES

Conservation Commission Meeting 6:00 P.M, Tuesday, September 28, 2021

Commissioners Present: Charles Wagner, Sheila Filipowski, Janet Benjamins, Thomas Durkin, Suzanne Bryan.

Staff Present: Charles Katuska

Also Present: William Tully Jr., Stuart and Ann Vaeth, Caitrin Higgins, Trent Sullivan, Chris Crobar, Nicole Paine, Edmund Cassarella, Stephanie Sequin, Laura Kelley, Lindsay Strode

6:00 PM Meeting opened by Sheila Filipowski and executed roll call.

Benjamins – YEA

Bryan - YEA

Durkin - YEA

Wagner - YEA

Filipowski –YEA

PUBLIC HEARINGS

Continuation of Notice of Intent filed by William F. Tully Jr. Applicant proposes completion of partially constructed revetment and sand nourishment at property located at 115 Sparrow Road, Map 04, Parcel 197.

William Tully Jr. represented his application and stated that he wants to repair 20 feet of his revetment.

The Commissioners had no issues with the filing.

Charles Wager **MOVED** to close the hearing. Janet Benjamins **SECONDED, ALL IN FAVOR.**

Benjamins – YEA

Bryan - YEA

Durkin - YEA

Wagner - YEA

Filipowski –YEA

The Conservation Agent suggested that the Commissioners vote on an Order of Conditions for standard revetment conditions and nourishment requirements.

Thomas Durkin **MOVED** to approve with conditions stated. Charles Wagner **SECONDED, ALL IN FAVOR**

Benjamins – YEA
Bryan - YEA
Durkin - YEA
Wagner - YEA
Filipowski –YEA

Continuation of Notice of Intent filed by Steven and Cathy Sanders. Applicant proposes to improve existing right of way at property located at 670 State Highway, Map 21, Parcel 066.

A Continuation was requested by Representative until October 12, 2021.

Janet Benjamins **MOVED** to continue until October 12, 2021. Suzanne Bryan **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin - YEA
Wagner - YEA
Filipowski –YEA

Continuation of Notice of Intent filed by Stuart Vaeth. Applicant proposes landscaping work, and irrigation (after the fact) at property located at 90 John Thomas Road, Map 20, Parcel 038.

Stuart and Ann Vaeth represented their application. The Representative talked about mitigation, grass seed, the trees that were removed, and the proposed beds.

The Conservation Chair went over the trees that are being proposed, and inquired on the irrigation and stated it will have to be removed and discussed temporary above ground irrigation with the Representative. The Conservation Chair inquired on the grass seed and the representative stated they were going to over seed what is in place now. The Representative inquired on leaving the irrigation in place for the time of the Order of Conditions and explained why to the Commissioners.

The Commissioners discussed irrigation and fertilizers in the buffer zone. Another Conservation Chair stated that the regulations state no irrigation is allowed and the other Commissioners agreed and stated they want the irrigation removed. The Conservation Chair stated that if the proper procedures were followed, the irrigation system would not be a discussion because it would not have been approved.

Charles Wagner **MOVED** to close the hearing. Janet Benjamins **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin - YEA
Wagner - YEA
Filipowski –YEA

The Conservation Agent advised the Commissioners about the Order of Conditions. The Conservation Chair stated that the following should be added to the Order of Conditions. Acceptance of the planting plan, and disallow the irrigation system. The Commissioners continued to discuss the Order of Conditions and stated that they will vote during the next meeting.

Continuation of Notice of Intent filed by Gerald Billow& Barbara Kellman. Applicant proposes removal of invasive plant species, site restoration, plant management and establishment of two view corridors at property located at 120 Lawton Road, Map 14, Parcel 050.

Caitrin Higgins represented the applicant and went over the revisions that were made. The Representative spoke of the trees, saplings, the width of the project area on top of the bank, erosion control, additions to the notes on the site plan, limit of work, the ACEC, proposed rubble removal, mitigation, view corridors and storm water runoff.

The Conservation Chair inquired on the vegetation within the green dotted areas and green lined areas. The Representative stated part is the view corridor area, vegetation that will remain and saplings proposed to be removed. The Conservation Chair requested less clearing in the view corridors and also a lesser width of the view corridor. The Conservation Chair also questioned if the oak tree was diseased. The Representative stated that Bartlett Tree Company looked at both oak trees and stated they have a lot of decay and dead growth. The Conservation Chair inquired on the removal of the Maple trees located by the water. The Representative stated that two trees are proposed to be removed by the water, which is 1 Oak Tree and 1 Maple Tree. The Representative stated that they were advised by the tree company that both trees were failing, and should be removed. The Conservation Chair questioned how the planting plan was going to improve the area. The Representative stated that by adding biomass and habitat for wildlife. The Conservation Chair inquired on the grey area on the site map. The Representative stated that it represents the existing native vegetation. The Conservation Chair inquired if there will be anything removed from the grey area. The Representative stated the invasive species will be removed and the protocol to remove the invasive species is in the land management plan.

A Commissioner requested the dimensions of the view corridors, questioned the wellness of the trees, expressed concerned about erosion and requested herbicides details. The Representative discussed the report from the Bartlett Tree Company, erosion, native grasses and mitigation with the Commissioners. The Commissioner expressed concern over clearcutting and the view corridors. The Representative stated the first proposed view corridor is 10 to 11 feet wide and the other proposed view corridor is 30 feet wide.

The Conservation Agent suggested it might be better if the Commissioners had an understanding to how many trees will remain in the view corridors. The Conservation Agent continued to discuss the removal, remaining and mitigation of the trees and saplings. The Conservation Agent also questioned the coastal bank since it is on a freshwater pond. The Representative stated that 35 trees are on the bank and 13 are within the green area and continued to discuss the view corridors with the Commissioners and the Conservation Agent.

Another Commissioner shared concerns on the width of the view corridor, and inquired on the proposed upkeep of the new plantings and continue to discuss this with the Representative. The Conservation Agent inquired on the herbicide foliage spray. The Representative stated that would be used on small invasive species and pathways. The Representative stated that she believes the 35 mature trees are marked on one of the site plans. The Conservation Agent stated that he does not see anything representing mature trees on the site plan and continued to discuss the trees with the Representative. The Conservation Chair stated that the Representative is not proposing on taking down 35 mature trees but only two. The Representative agreed.

Another commissioner discussed the regulations on vista views and that you cannot reduce the overall canopy from top to bottom any more than 10%. The Commissioner continued to discuss the vista views, habitat, and crowning versus topping.

The Representative stated that if they do their job correctly then the applicant would not need any extensions. A Commissioner inquired on why two corridors and was advised it was because the house is a two-family house. The Commissioner inquired to why both families are not filing for separate view

corridors. The Applicant, Barbara Kellman stated that they own the entire house, which is zoned a two family house and explained the house set up.

The Conservation Agent stated that there is still concerned about the view corridors width, wetland protection act concerning vista pruning, mature trees showing within the view corridors, mitigation information, herbicides, and the width of the view corridors. The Conservation Agent continued to go over the proposed project with the Representative and Commissioners.

The Representative inquired on the qualified analysis and requested the Commissioner explain what it meant. The Commissioner explained what he meant concerning the regulations of Vista Views with the Representative. The Representative stated that they would map the canopy.

The Conservation Chair requested more information concerning the canopy, erosion control and the size and amount of view corridors. Another Commissioner would like to see the multi-stem maple tree left. The Applicant stated the regulations concerning view corridors and is not sure what the Commissioners are looking for. A Commissioner stated that presently there is no erosion, and is concerned about removing the current wildlife habitat. The Commissioner also stated concern over the growth of the replacement vegetation and questioned how much growth it will take to supply the same habitat. The Commissioner continued to state that they would rather have one vista corridor or two narrow vista corridors. Another Commissioner agreed on the Maple tree staying and on narrowing the 30-foot vista corridor.

The Representative stated concern about the standards and feels they are being held at a higher standard and continued to discuss it with the Commissioners.

Another Commissioner discussed the ground cover and the view corridor and feels the larger view corridor should be narrower.

The Representative requested a continuation until October 12, 2021.

Charles Wagner **MOVED** to approve a continuation until October 12, 2021. Thomas Durkin **SECONDED, ALL IN FAVOR.**

Benjamins – YEA

Bryan - YEA

Durkin - YEA

Wagner - YEA

Filipowski –YEA

Continuation of Request for Amended Order of Conditions (SE 19-1762). Permittee (Town of Eastham) proposes expanding approved truck access from First Encounter Beach to the Boat Meadow Aquaculture Development Area to include the months of June-September at property located at 1620 Samoset Road, Map 16, Parcel 012.

Trent Sullivan and Chris Crobar represented the proposed Amended Order of Conditions. The Representative stated that the truck request is for the months of May through December. The Representatives talked about being approved during the Town Meeting and is seeking Conservations approval.

The Conservation Chair stated that a decision would not be made during this meeting. The Conservation Chair continue to state concern for the environment, Recreation Departments concerns, and endangered species. The Conservation Chair inquire on the number of Grants in the area. Nicole Paine stated that there are 27 acres, and the most they will see is 27 individuals using trucks and continued to explain how the area numbers work. The Conservation Chair reiterated that there would be no more than 27 and not less than

14 trucks accessing the area. The Conservation Chair inquired on how the sites are currently accessed and was advised by foot or boat. Another Commissioner inquired on how far is it to the grants, and was advised a half a mile. The Conservation Chair asked about the tide chart. The Representative stated that the tides that are highlighted are before beach hours and explained the days. The Conservation Chair inquired on what hours are they proposing to access the grants. The Representative stated they have access ½ hour before sunrise, and ½ hour after sunset. The Representative also stated that those times are not finalized, but did state they will be off the beach by 9:00 am. The Conservation Chair stated that the tide chart changes every year and inquired if the Representatives are going to be pre-approved for those times each year. The Representative stated they would get pre-approval.

A Commissioner stated that they go to First Encounter Beach and at 6:30 the beach rake goes by, 7:00 a.m. yoga class shows and then around 7:45 beach goers come and usually stay on the beach until sunset. The Commissioner also stated that around 11:00 am the beach parking lot is full which means 800 to 1000 people are on the beach and is concerned about safety. The Representative stated that they are not going to be on the beach during the day and after 9 am in the morning, but did agree that someone might have to be there to make sure everyone stays safe.

Another Commissioner stated they would like to see a condition concerning the nesting birds and that 8 to 9 days a month feels agreeable and inquired if they could be month specific. The Representative stated they need the Conservation Commissions approval for all year and the days would be approved by other Town Departments. The Representative also stated they would like to use their trucks to pull equipment and product from the beach to their home. The Commissioner also stated that they feel there should be more details in the months, but was advised that those details will be worked out with the Selectboard, Recreation Department, and possibly the DPW.

A Commissioner inquired on why truck use was not requested for the full year prior. The Representative stated that originally, trucks were allowed, and then ATV's were requested and growers changed to ATV's. The Representative continued to discuss other towns that use trucks, competing with other towns and food safety. The Commissioner continued to discuss with the Representatives, time of year, problem with ATVs and difficulty getting parts for broken ATVs, State Regulations concerning food safety, the condition of deflating tires prior to driving onto the beach. The Representative stated that he believes people are airing down prior to going on the beach.

Another Commissioner stated that he agrees with going out at Bee's River, which moves them away from the beach goers and stated concern for beach safety.

Nicole Paine stated that the reason it was not requested for full year access was due to Town By-law, Nicole Paine continued to discuss the growth of the industry, and not using Bee's River due to bird habitat and beach goers. The Representative discussed the history of grants with the Commissioners.

Edmund Casarella, Chair of the Recreation Commission stated the beach is crowded all day, parking spaces being used by the Shell fishermen, revenue from the parking lot and safety of beach goers.

The Conservation Chair feels they need more information concerning a study of the effects of increase activity and trucking on the beach, and collect data concerning the environment, endangered species, beach goers, and trucks accessing the area. The Conservation Chair discussed having a yearly report could be added as a Condition.

The Conservation Agent discussed the areas that are being used by the shell fishermen, positive impact of having grants, unknown future impacts, by-law, and agreed on the Condition.

A Commissioner inquired on what the economic impact would be if they are allowed to use trucks year round. The Representative stated they do not have any information concerning the impact. The Representative discussed the difference of the Town of Wellfleet who allows trucks on the beach versus

Eastham. The Representative stated that he purchases 200,000 oyster seeds, and will cap it at that without access and stated if they can bring product home, it will allow them to work longer days. A commissioner inquired on how the beach is accessed in Dennis and Wellfleet. The Representative stated that Dennis has an off road vehicle program and Wellfleet accesses their farms by using private property with the owner's permission, and continued to discuss access points with the Commissioners.

The Representative discussed what agencies they are still waiting to hear from and what letters they have already received with the Commissioners.

The Representatives requested a Continuation until October 12, 2021.

Thomas Durkin **MOVED** to continue until October 12, 2021. Charles Wagner **SECONDED, ALL IN FAVOR.**

Benjamins – YEA

Bryan - YEA

Durkin - YEA

Wagner - YEA

Filipowski –YEA

REGULATORY DETERMINATIONS

Request for Determination of Applicability filed by Joshua Tinkleman. Applicant proposes installation of water service connection at property located at 455 Turnip Field Road, Map 04, Parcel 449.

The Conservation Agent stated the proposed project and advised the Commissioners to Approve under a negative determination for reason number 3.

Charles Wagner **MOVED** to approve under a Negative Determination for reason number 3. Janet Benjamins **SECONDED, ALL IN FAVOR.**

Benjamins – YEA

Bryan - YEA

Durkin - YEA

Wagner - YEA

Filipowski –YEA

Request for Determination of Applicability filed by Karen Scibinico and Edward Equi. Applicant proposes to remove bluestone from driveway and walkway and replace with pavers at property located at 130 Windjammer Lane. Map 19, Parcel 069.

The Conservation Agent stated that no one is at the meeting to represent the project. The Conservation Agent continued to go over the proposal and stated concern on what type of filler is going to be used. The Conservation Agent recommended a continuation.

The Conservation Chair inquired on the pavers and if they are pervious. The Conservation Agent stated that most pavers are not pervious and it depends on the filler used around the pavers. The Conservation Chair stated that she does not approve the filler and inquired if other Commissioners feel the same way. A Commissioner agreed and discussed fillers. Another Commissioner inquired why the applicant wanted to remove the blue stone and was advised that question is for the applicant.

Conservation Chair requested to continue until October 12, 2021.

Suzanne Bryan **MOVED** to approve. Janet Benjamins **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin - YEA
Wagner - YEA
Filipowski –YEA

Request for Determination of Applicability filed by **Albert Pemberton**. Applicant proposes to remove the existing outbuilding, construct a new detached garage and expand the existing driveway at property located at 720 Campground Road, Map 7A, Parcel 031.

Stephanie Sequin represented the applicant and summarized the property for the Commissioners. The Representative talked about the flood area, buffer zones, removing the pump house and replacing with a detached garage, driveway extension, using shells in the driveway, limit of work, and material removal.

The Conservation Chair inquired if the Representative considered the roof runoff. The Representative stated they could do crush stone at the drip line.

Another Commissioner inquired why the buffer zones are not represented on the site plan and was advised by the Representative that the 100-foot buffer zone is represented but not the 50-foot buffer zone. Another Commissioner inquired on the garage design and if they considered the flood zones in the design. The Representative stated that based on the current maps and elevations, the garage is two feet above the 100-foot flood zone. Another Commissioner inquired on putting the garage on pilings and was advised that the applicant wants to have a full basement under the garage.

The Conservation Agent stated the Condition for gravel trenches at the drip lines. The Conservation Agent suggested that the Commissioners approve under a Negative Determination for reason number 3.

Charles Wagner **MOVED** to approve under a negative determination for reason number 3. Suzanne Bryan **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin - YEA
Wagner - YEA
Filipowski –YEA

ADMINISTRATIVE MATTERS

Request for Certificate of Compliance for SE 19-1814 for planting of native plants, cut back bushes, remove pine trees and oak trees, replace stone steps, replace blue stone pavers, and add peach pea-stone as mulch at property located at 15 Bayberry Lane, Map 13, Parcel 150.

Little Field Landscape, Laura Kelley, represented the applicant and stated that there was one difference. The Representative stated they changed some plants that were outside of the buffer zone. The Representative stated that she gave a new planting plan to the Commissioners and continued to discuss the project.

Thomas Durkin **MOVED** to approve. Charles Wagner **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA

Durkin - YEA
Wagner - YEA
Filipowski –YEA

Request for Plan Change Review for SE 19-1772. Permittee (Bernard & Diane Durante) requests changes to approved pool & retaining wall plan to permit installation of permanent irrigation in the outer 20' of the buffer zone in order to support permanent vegetation on a slope at property located at 255 Mary Chase Road, Map 18, Parcel 80A.

Lindsay Strode represented the applicant, and explained the plan change request, mitigation installation, and using permanent irrigation and continued to discuss irrigation with the Commissioners. The Representative also stated they would like water extended from the house to the shed.

The Conservation Chair stated that permanent irrigation is not allowed in the buffer zone. The Representative talked about temporary irrigation or turning off that part of the irrigation once the mitigation is established. The Conservation Chair stated that only temporary irrigation is allowed within the buffer zone. The Representative stated that temporary irrigation could be run from a faucet located in the shed.

The Conservation Agent stated that the plan change that is being proposed needs to be denied and the representative will have to come back with a new plan change. The Conservation Chair inquired if a revised plan for this request should be entered and was advised yes. The Representative requested to continue this request until October 12, 2021.

Charles Wagner **MOVED** to continue until October 12, 2021. Thomas Durkin **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin - YEA
Wagner - YEA
Filipowski –YEA

Administrative Review filed by Cheryl Welch. Applicant proposes to cut down and leave one Black Oak Tree, and inject the second Black Oak Tree with Mectinitate at property located at 1600 Samoset Road, Map 13, Parcel 130A.

The Conservation Agent recommended approval.

Charles Wagner **MOVED** to approve. Thomas Durkin **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin - YEA
Wagner - YEA
Filipowski –YEA

Violations

The Conservation Agent advised the Commissioners that there were no new Violations and no updates on existing Violations.

Liaison Reports

The Commissioners discussed their Liaison Reports.

Education & Training Updates

The Commissioner discussed Education and Training email that was recently received.

Minutes

August 24, 2021 Minutes

Charles Wagner **MOVED** to approve the August 24, 2021 Minutes. Janet Benjamins **SECONDED, ALL IN FAVOR.**

Benjamins – YEA

Bryan - YEA

Durkin - YEA

Wagner - YEA

Filipowski –YEA

Other Discussion

The Conservation Chair discussed the upcoming Work Session with the Commissioners.

Charles Wagner **MOVED** to adjourn. Suzanne Bryan **SECONDED, ALL IN FAVOR.**

Benjamins – YEA

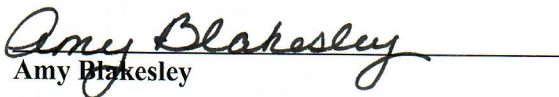
Bryan - YEA

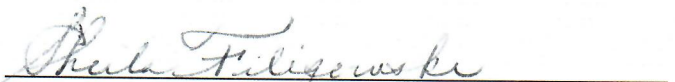
Durkin - YEA

Wagner - YEA

Filipowski –YEA

Respectfully Submitted as prepared by,


Amy Blakesley


Sheila Filipowski, Chairman Conservation Commission